IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Bail Appl..No. 6267 of 2007()

CRMP.4000/2007 of DISTRICT COURT, THODUPUZHA
CRIME NO.151/07 OF MURIKKASSERY POLICE STATION

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PETITIONER/7TH ACCUSED

BINDU, W/O.SOJAN, AGED 30 YEARS,
AARYAMANNIL HOUSE, VATHIKUDY VILLAGE,
MURIKASSERY KARA.

BY ADV. SRI.JOICE GEORGE

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
MURIKASSERY POLICE STATION, MURIKASSERY.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6267 OF 2007

Dated this the 17th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 7th accused in the crime. She as well as the 6th accused are both employees of a finance company. They, it is alleged, had committed misappropriation, defalcation etc., in the finance company in which they were working. Audit was impeding. They wanted the evidence to be destroyed so that the misappropriation, defalcation etc., would not come to light. They allegedly contacted the principal accused i.e., A1 who, in turn, engaged A2 to A5. An amount of Rs.35,000/- was agreed to be paid to A1 by A6 and A7. That amount was raised by pledging the gold ornaments of the 6th accused. A7 promised A6 to give her share later. The amount was delivered to A1 who, in turn, engaged accused 2 to 5. Accused 2 to 5 are

mercenaries. They allegedly attempted to break open into the finance establishment and create evidence to have committed theft. But the plan did not succeed. The local people, who heard the attempts of the accused in the establishment, collected and apprehended some of the accused. The crime was accordingly registered. Initially, the role of A6 and A7 was not revealed. The interrogation of the apprehended accused and others have now led the police to the conclusion that it was at the instance of A6 and A7 that the conspiracy took place and that the accused 2 to 5 were only higher links who carried out the mission of the conspirators at the establishment. Accused No.6 has been arrested. Her confession has been recorded. Investigation in in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. She has nothing to do with the conspiracy. It is, in these circumstances, prayed that the petitioner may be granted anticipatory bail.

3. This application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that the

available indications clearly point to the culpable involvement of the petitioner herein also. Confession of the co- accused i.e., A6, clearly reveals the role played by the petitioner herein. There are indications to suggest that the petitioner had made phone calls to the 1st accused and the 1st accused had returned calls in respect of the conspiracy and the further events. At any rate, this is not a fit case where the discretion under Sec.438 of the Cr.P.C. can or ought to be invoked, submits the learned Public Prosecutor.

4. The Case Diary has been perused by me. In particular, the confession statement of the 6th accused has been perused. At this early stage of the investigation, I shall not embark on a detailed discussion on the acceptability of the allegations or the credibility of the data collected. Suffice it to say that, on an anxious consideration of all the relevant inputs, I find no features in this case which would justify or warrant the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I am in agreement with the learned Public Prosecutor, is a fit case where the petitioner must resort to the normal and ordinary course of appearing before the Investigating Officer or the learned

Magistrate having jurisdiction and then seek regular bail. Needless to say that if she so seeks regular bail, she will certainly be entitled to invoke the compassion of law in favour of a person like the petitioner – a woman. She has an infant child, it is submitted.

5. With the above observations, this bail application is dismissed.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge